

# United States District Court, Northern District of Illinois

Name of Assigned Judge or Magistrate Judge	Blanche M. Manning	Sitting Judge if Other than Assigned Judge	
CASE NUMBER	06 C 782	DATE	June 24, 2010
CASE TITLE	Valley Air v. Southaire		

**DOCKET ENTRY TEXT:**

The defendants' motion to amend the judgment to setoff the amount of the Valley Air/Central Flying settlement [#438] is denied.

■ [ For further details see text below.]

**STATEMENT**

The defendants' motion to amend the judgment to setoff the amount of the Valley Air/Central Flying settlement is before the court. The court previously denied a similar motion after the first trial. *See* Dkt. 359 (post-trial motions); Dkt. 376 (motion to reconsider). As the court noted at that time, "[g]enerally, the party seeking the setoff bears the burden of proving what portion of a prior settlement was allocated or is attributable to the claim for which he is liable." *Pasquale v. Speed Products Engineering*, 166 Ill.2d 337, 369 (Ill. 1995). The court also held that the exception to the rule that would force Valley Air to carry the burden of proof was inapplicable because the settlement occurred in this case, not a prior separate case. *See* Dkt. 376 at 4-6. Based on this holding, it concluded that the defendants had not carried their burden of proof because they did not apportion damages (*i.e.*, show that the Central Flying settlement was for the same damages awarded by the jury).

In their present motion to amend, the defendants again assert that Valley Air carries the burden of proof regarding the allocation of damages. However, the court finds that the authority cited by the defendants regarding the burden of proof issue is inapposite as it fails to support their position about allocation and the burden of proof. The court also declines to speculate as to whether some or all of the Central Flying settlement is attributable to the claims for which Southaire and Mr. Brunner are liable. *See Thornton v. Garcini*, No. 107028, — Ill.2d —, 2010 WL 1714000 (Ill. Apr. 22, 2010) (affirming denial of a setoff based on a prior settlement with different defendants in the same case where the defendant seeking setoff failed to carry its burden of proof regarding allocation). Accordingly, the court declines to revisit its rulings regarding setoff. This dooms the defendants' motion, which is, therefore, denied.

Courtroom Deputy  
Initials:

RTH/c